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February 25, 2000

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EXECUTIVE SECRETARY

David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

In Re: Notice of US LEC Corp of "Bona Fide Request" for an Interconnection
Agreement with TDS Local Exchange Carriers Pursuant to 47 U.S.C. §
251
Docket No. 00-00026

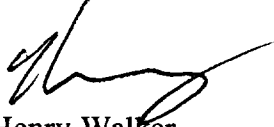
Dear David.

Please accept for filing the original and thirteen copies of the Response of US LEC in
the above-captioned proceeding.

Sincerely,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:


Henry Walker

HW/nl
c: Parties

POSTED
2-28-2000

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE: NOTICE OF US LEC CORP OF "BONA FIDE REQUEST" FOR AN
INTERCONNECTION AGREEMENT WITH TDS LOCAL EXCHANGE
CARRIERS PURSUANT TO 47 U.S.C. § 251
DOCKET. NO. 00-00026

RESPONSE OF US LEC TO ISSUE OF CONSOLIDATION

At the request of the pre-hearing officer, US LEC Corp. ("US LEC") submits the following brief concerning whether or not this proceeding (hereinafter described as the "US LEC Petition") should be consolidated with docket 99-00613, "Petition of the Tennessee Small Local Exchange Company Coalition" (hereafter described as the "Coalition Petition").

At this time, US LEC takes no position as to whether the Tennessee Regulatory Authority ("TRA") should, as a matter of administrative economy, consolidate these two proceedings. For the reasons stated below, however, it seems that consolidation or, in the alternative, simultaneous proceedings would be the most reasonable way to handle these related dockets.

Whether or not consolidation occurs, the TRA is required by Section 251(f)(1)(B) of the federal Telecommunications Act of 1996 to rule on US LEC's Petition by May 3, 2000. The Coalition's proceeding also has a statutory time limit. At this time, a hearing has been tentatively scheduled in April for the Coalition's Petition. A hearing at that time would also comport with the statutory timetable for US LEC's petition.

More importantly, the two proceedings should be consolidated or conducted simultaneously because the issues in the two proceedings are virtually identical,¹ the burden of proof is the same, and, as far as US LEC and TDS Telecom are concerned, a decision in one case will necessarily determine the outcome of the other case.² It therefore seems reasonable either to consolidate the two petitions or, at the least, to conduct one -- not two -- hearings and take judicial notice of the record in each proceeding.

In sum, consolidation *per se* is not a concern to US LEC. What is important is that TDS not be allowed to delay the advent of competition by having two, separate proceedings, each taking

¹ In the US LEC proceeding, TDS Telecom must demonstrate that US LEC's interconnection request is not "technically feasible" or that it would be "unduly economically burdensome." Those are the identical standards that TDS must meet in the Coalition proceeding.

The only difference between the two proceedings is that, in the US LEC docket, the agency must consider whether ordering TDS to interconnect with US LEC is "consistent with" the universal service principles described in Section 254, *i.e.*, "Quality Services should be available at just, reasonable and affordable rates." In the Coalition proceeding, the TRA must consider whether interconnection between TDS and US LEC is necessary to "avoid a significant adverse economic impact on users of telecommunications services generally" and is "consistent with the public interest."


All of these terms: "universal service," the "public interest," and "significant adverse economic impact on users" seem to be different ways of expressing the same thing.

² If, for example, the TRA grants US LEC's petition, that would necessarily mean that TDS has lost its part of the Coalition's case. Similarly, if TDS prevails in the Coalition proceeding, US LEC's petition would be moot.

several months and the second not beginning until the first one is over. That is why the federal Act contains statutory deadlines and why this agency should proceed expeditiously with both dockets.

Respectfully submitted,

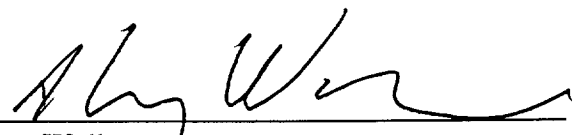
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CERTIFICATE OF SERVICE

I, Henry Walker, hereby certify that I have served a copy of the foregoing Response to the following on this 25 day of February, 2000.

T.G. Pappas, Esq.
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2700 First American Center
Nashville, TN 37238-2700


Henry Walker